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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/820,858

04/09/2004

Hideomi Idei

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8697

24956

7590

12/13/2006

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ALEXANDRIA, VA 22314

EXAMINER

BONZO, BRYCE P

ART UNIT

PAPER NUMBER

2113

DATE MAILED: 12/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/820,858	<b>Applicant(s)</b> IDEI ET AL.	
	<b>Examiner</b> Bryce P. Bonzo	<b>Art Unit</b> 2113	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 8 and 11 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **Final Official Action**

### ***Status of the Claims***

Claim 2 is rejected under 35 USC §112.

Claims 1, 3-5, 7, 8 and 11 are rejected under 35 USC §103.

Claim 6 is objected to while containing allowable subject matter.

### ***Rejections under 35 USC §103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 2 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicants disclose does not provide for the priorities being defined by the storage system. Applicant has disclosed the user defining priorities.

### ***Rejections under 35 USC §103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-5, 7, 8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kodama (United States Patent No. 6,725,549 B2) in view of Tamatsu (United States Patent Application Publication US 2003/0074600 A1).

As per the claim 1, Kodama discloses:

a first storage apparatus located a first site (figure 1, item 12');

a second storage apparatus located a second site operatively connected to the first site via a network (figure 1, item 12);

wherein the first storage apparatus is configured to sort data stored in the first storage apparatus into groups which are assigned a priority level and to transfer the sorted data to the second storage apparatus (column 5, lines 15-20; lines 60-63).

Kodama does not explicitly disclose:

wherein, when a failure occurs in the first storage apparatus, the second storage apparatus transfers the sorted data stored therein, in an order according to the priority levels assigned to the groups, to the first storage apparatus to recover the first storage apparatus (Tamatsu ¶215).

Kodama and Tamatsu are both remote mirror systems which back up data over a network, factoring the speed and reliability of the transfer methodology. Kodama does not explicitly disclose the method of recovery in the mirrored set is to perform the restoration in the same manner the back up. Tamatsu clearly discloses using the same back process for back up in restoration. Thus it would have been obvious to one of ordinary skill in the art of data recovery, to explicitly modify the system of Kodama to recovery in the same manner as it backs up in order to recover in a more secure manner.

As per claim 3, Kodama discloses:

wherein the first storage apparatus transfers the sorted data to the second storage apparatus in an asynchronous remote copy manner (column 3, lines 23-38; Tamatsu ¶215).

As per claim 4, Kodama discloses:

wherein the sorted data s used in a database (column 3, lines 39-62).

As per claim 5, Tamatsu discloses:

wherein one of the groups in which the data is sorted includes a log set (¶116),  
and

the one of the groups is transferred from the first storage apparatus to the second storage apparatus in a synchronous remote copy manner (§215).

As per claim 7, Tamatsu discloses:

wherein the second site detects the failure of the first storage apparatus via the network (§156).

As per claim 8, Tamatsu discloses:

wherein the second storage apparatus restricts use of at least one of the groups in which data to be recovered is included, and allows use of at least one of the groups when the data in the at least one of the groups is recovered (§215).

As per claim 11, Kodama discloses:

a first storage apparatus located a first site (figure 1, item 12');

a second storage apparatus located a second site operatively connected to the first site via a network (figure 1, item 12);

wherein the first storage apparatus is configured to sort data stored in the first storage apparatus into groups which are assigned a priority level and to transfer the sorted data to the second storage apparatus (column 5, lines 15-20; lines 60-63).

wherein the sorted data is used in a database (column 3, lines 39-60).

Kodama does not explicitly disclose:

wherein, when a failure occurs in the first storage apparatus, the second storage apparatus transfers the sorted data stored therein, in an order according to the priority levels assigned to the groups, to the first storage apparatus to recover the first storage apparatus (Tamatsu ¶215);

wherein one of the groups into which the data is sorted includes a log data set (¶166) and the one of the groups is transferred from the first storage apparatus to the second storage apparatus in a synchronous remote copy manner (¶215).

Kodama and Tamatsu are both remote mirror systems which back up data over a network, factoring the speed and reliability of the transfer methodology. Kodama does not explicitly disclose the method of recovery in the mirrored set is to perform the restoration in the same manner the back up. Tamatsu clearly discloses using the same back process for back up in restoration. Thus it would have been obvious to one of ordinary skill in the art of data recovery, to explicitly modify the system of Kodama to recovery in the same manner as it backs up in order to recover in a more secure manner.

#### ***Allowable Subject Matter***

Claim 6 is objected while containing allowable subject matter. The claim has been considered as a whole with all parent limitations.

***Final Disposition***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryce P. Bonzo whose telephone number is (571)272-3655. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (571)272-3645. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Art Unit: 2113

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Bryce P. Bonzo  
Primary Examiner  
Art Unit 2113

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